

**In The Matter Of:**  
*United States vs.*  
*PFC Bradley E. Manning*

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*Vol. 25*  
*July 31, 2013*  
*UNOFFICIAL DRAFT - 7/31/13 Morning Session*

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*Provided by Freedom of the Press Foundation*

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VOLUME XXV

IN THE UNITED STATES ARMY

UNITED STATES

VS.

MANNING, Bradley E., Pfc. COURT-MARTIAL

U.S. Army, xxx-xx-9504

Headquarters and Headquarters Company,

U.S. Army Garrison,

Joint Base Myer-Henderson Hall,

Fort Myer, VA 22211

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The Hearing in the above-titled matter was held on Wednesday, July 31, 2013, at 9:45 a.m., at Fort Meade, Maryland, before the Honorable Colonel Denise Lind, Judge.

DISCLAIMER

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1     **APPEARANCES:**

2  
3                   **ON BEHALF OF GOVERNMENT:**

4                   MAJOR ASHDEN FEIN

5                   CAPTAIN JOSEPH MORROW

6                   CAPTAIN ANGEL OVERGAARD

7                   CAPTAIN HUNTER WHYTE

8                   CAPTAIN ALEXANDER von ELTEN

9  
10                  **ON BEHALF OF ACCUSED:**

11                  DAVID COOMBS

12                  CAPTAIN JOSHUA TOOMAN

13                  MAJOR THOMAS HURLEY

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July 31, 2013

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1 PROCEEDINGS,

2 THE COURT: Court is called to order.

3 Major. Major Fein, account for the parties.

4 MR. FEIN: Your Honor, all parties in the  
5 court when court last recessed are present.

6 Also, as of 09:30, 15 members in media  
7 operation center, one stenographer, one member of the  
8 media in the courtroom, 22 spectators in the courtroom  
9 and no spectators in the overflow trailer but it's  
10 available.

11 THE COURT: PFC Manning, we are now going  
12 to enter into the sentencing phase of the trial where  
13 you have the right to present matters of extenuation in  
14 mitigation. That is, matters about the offenses or  
15 yourself that you want me to consider in deciding your  
16 sentence. In addition to the testimony of the  
17 witnesses and offering of documentary evidence, you,  
18 yourself, may testify under oath as to these matters or  
19 you may remain silent, in which case I will draw no  
20 adverse inferences from your silence.

21 On the other hand, if you desire you may

1 make an unsworn statement. Because the statement is  
2 unsworn, you cannot be cross-examined on it.

3 However, the Government may offer evidence  
4 to rebut any statement of fact in your unsworn  
5 statement. An unsworn statement may be made orally, in  
6 writing, or both. It may be made by you, your counsel  
7 on your behalf, or both.

8 Do you understand these rights?

9 PFC MANNING: Yes, Your Honor.

10 THE COURT: Is the personal data on the  
11 charge sheet accurate?

12 MR. FEIN: Yes, Your Honor, it was amended  
13 as of this morning.

14 THE COURT: The amendment was by virtue of  
15 a Xerox copy of the charge sheet.

16 MR. FEIN: It was, Your Honor. And a copy  
17 of the Xerox or the Xerox itself is with the court  
18 reporter with all the amendments made to this point.

19 THE COURT: That would be basic change to  
20 \$2,014.80?

21 MR. FEIN: Yes, ma'am, the date imposed

1 from pretrial restraint from 29 May 2007 to  
2 27 May 2010.

3 THE COURT: All right. Appears in order.

4 Mr. Coombs, understanding there was an  
5 Article 13 motion in this case, outside of the  
6 parameters of that motion has PFC Manning been punished  
7 in any way that would constitute the pretrial  
8 punishment under Article 13?

9 MR. COOMBS: No, Your Honor.

10 THE COURT: For the record, I gave 112 days  
11 of pretrial, additional pretrial confinement credit  
12 after hearing that motion.

13 PFC Manning, is that correct?

14 PFC MANNING: Yes, Your Honor.

15 THE COURT: Now, Counsel, based on the  
16 information on the charge sheet, PFC Manning should be  
17 credited according to my calculations with 10 -- or  
18 1,162 days of pretrial confinement credit and 112 days  
19 Article 13 unlawful pretrial confinement credit for a  
20 total of 1,274 days as of today; is that correct?

21 MR. FEIN: Yes, ma'am.



1 MR. COOMBS: Yes, Your Honor.

2 THE COURT: Do we have anything to address  
3 before we proceed with the Government's case.

4 MR. FEIN: Yes, ma'am. Other  
5 administrative matters, Your Honor, the Garrison  
6 Commander Bar was a document that the Court asked to be  
7 marked was marked. It is marked as Appellate  
8 Exhibit 622.

9 The Court's ruling on the RCM641 --

10 THE COURT: It's already been marked as  
11 Appellate Exhibit 622. Can't we just put it in with  
12 the remaining documents with the Appellate Exhibit 620?

13 MR. FEIN: We could, Your Honor, except  
14 it's been marked in separate filings.

15 THE COURT: Okay.

16 MR. FEIN: Also, Your Honor, the Court's  
17 ruling for the RCM 641 motion, the motion to dismiss,  
18 that's been marked as Appellate Exhibit 623.

19 The Court's verdict is marked as Appellate  
20 Exhibit 624.

21 The defense's motion to merge

1 Specifications 5 and 7 for findings dated 30 July 2013  
2 has been marked as Appellate Exhibit 626.

3 Defense motion to merge Specifications 4  
4 and 6 for findings dated 30 July 2013 has been marked  
5 as Appellate Exhibit 627.

6 And the defense's motion to merge as  
7 unreasonable multiplication for charges for sentences  
8 dated 30 July 2013 is marked as Appellate Exhibit 628.

9 THE COURT: All right. I was in chambers  
10 with counsel earlier in a RCM 802 conference, that's a  
11 conference where I discuss scheduling and issues that  
12 are going to arise in cases.

13 The defense had given me a copy of the  
14 three motions they had filed. The Government has asked  
15 until Friday to respond. So I have granted the  
16 Government the two days to respond and I will have a  
17 ruling on that early next week.

18 Does the defense desire oral argument with  
19 respect to those motions?

20 MR. COOMBS: Not at the time, Your Honor.  
21 When we receive the Government's response we can alert

1 the Court if we need oral argument.

2 THE COURT: Let me know.

3 MR. COOMBS: Yes, Your Honor.

4 THE COURT: And, Government, same thing.

5 MR. FEIN: Yes, ma'am.

6 THE COURT: Is there anything else we need  
7 to address at this time before we proceed with the  
8 Government's case?

9 MR. FEIN: No, ma'am. But prior to calling  
10 the first witness, we would ask for a 10 minute recess.

11 THE COURT: All right. Court is in recess  
12 until 5 minutes after 10:00.

13 (Court in recess.)

14 THE COURT: Court is called to order. Let  
15 the record reflect all parties present when the court  
16 last recessed are again present in court.

17 Before the Government starts the case I  
18 neglected to ask the parties what they believe the  
19 maximum punishment is based upon the verdict yesterday.

20 MR. FEIN: Your Honor, the maximum  
21 punishment based on verdict is 136 years confinement.

1 THE COURT: Concurrent. (Inaudible.)

2 MR. FEIN: Yes, ma'am.

3 Your Honor, 136 years maximum confinement  
4 to be reduced to the rank of Private E-1 and to be  
5 dishonorably discharged from the United States Army.

6 THE COURT: Is there a forfeiture penalty?

7 MR. FEIN: Total forfeiture pay allowances.

8 THE COURT: Government interested in a  
9 fine?

10 MR. FEIN: Yes, as originally stated.

11 THE COURT: Does the Defense agree?

12 MR. COOMBS: Defense agrees the maximum  
13 punishment, but would argue the fine.

14 THE COURT: The Court agrees as well the  
15 maximum authorized punishment in this case,  
16 understanding we have the Defense motions for  
17 unreasonable multiplication of charges.

18 For sentencing as it currently stands the  
19 grade of Private E-1, total forfeiture of all pay and  
20 allowances, 136 years of confinement and dishonorable  
21 discharge and the Government has requested refund.

1                   Anything else we need to address before we  
2 proceed?

3                   MR. FEIN: No, ma'am.

4                   MR. COOMBS: No, ma'am.

5                   THE COURT: Government, call your first  
6 witness.

7                   MR. FEIN: Your Honor, United States calls  
8 Brigadier General Robert Carr.

9                   Sir, please stand and face me.

10                  Please raise your right hand.

11 Whereupon,

12                  BRIGADIER GENERAL ROBERT CARR,  
13 called as a witness, having been first duly sworn to  
14 tell the truth, the whole truth, and nothing but the  
15 truth, was examined and testified as follows:

16                  DIRECT EXAMINATION BY MR. FEIN:

17                  Q       Sir, you are Brigadier General Robert Carr  
18 United States Army retired?

19                  A       I am.

20                  Q       Sir, before we continue, I'd like to remind  
21 you this is an unclassified open session. If any

1 questions that the United States, the Defense or Court  
2 asks you that elicits classified information please  
3 notify the Court prior to answering.

4 Sir, what is your current position in your  
5 retired status?

6 A I am an employee of the Northrop Grumman  
7 Corporation. I work on the corporate staff and I'm  
8 their corporate lead executive representing them at  
9 Ft. Meade, Aberdeen and the community.

10 Q Sir, when did you retire from active duty?

11 A My last day was, I think I signed out on  
12 about 5 July 2011.

13 Q And, sir, you are aware that you are here  
14 today to discuss your expertise in the DoD intelligence  
15 operations and intelligence sharing with the United  
16 States Government, with coalition partners and foreign  
17 partners?

18 A I am.

19 Q And, sir, in that capacity will you be able  
20 to, once we get through this, assuming the Court allows  
21 it, to give an opinion on the impact of PFC Manning's

1 criminal conduct on the Department of Defense and  
2 intelligence operations?

3 A I will.

4 Q And also an opinion, sir, on the impact to  
5 information sharing within the United States Government  
6 and with foreign nations, foreign partners and  
7 coalition forces?

8 A I will.

9 Q Thank you, sir.

10 THE COURT: What is the, say it very  
11 slowly, scope of expertise that you are looking to  
12 qualify this witness for?

13 MR. FEIN: Yes, ma'am. Your Honor, United  
14 States intends to qualify General Carr as an expert in  
15 DoD intelligence operations.

16 THE COURT: All right.

17 MR. FEIN: And intelligence sharing with  
18 the United States Government --

19 THE COURT: All right.

20 MR. FEIN: -- with foreign partners and  
21 coalition forces.

1 THE COURT: All right. Proceed.

2 Q Sir, prior to your retirement, what was  
3 your last job in the United States Army?

4 A I was the director of the Defense  
5 Counterintelligence and HUMINT Center for the defense  
6 intelligence agency.

7 Q And how long were you in that position,  
8 sir?

9 A From September of '09 until my retirement  
10 in July '11.

11 Q General, sir, what were your  
12 responsibilities as the director of the defense  
13 counterintelligence HUMINT center for DI?

14 A So I oversaw the defense covert program. I  
15 was the director of the defense attaché system. I led  
16 defense HUMINT operations on behalf of the Defense  
17 Intelligence Agency as well as a number of  
18 counterintelligence operations that were run within the  
19 Defense Intelligence Agency and then provided that  
20 leadership to the senior DoD person working HUMINT CI  
21 across the community.



1           Q           Sir, in that position as the director of  
2 the DCHC, who did you report to, sir?

3           A           I reported to General Burgess.

4           Q           Who is General Burgess?

5           A           Director of the Defense Intelligence  
6 Agency.

7           Q           Who did he report to as the director of  
8 DIA, sir?

9           A           I believe he reported to the Under  
10 Secretary of Defense for Intelligence and then the Sec.  
11 Def.

12          Q           And, sir, what was your position at the  
13 time of the WikiLeaks releases in the summer of 2010?

14          A           I was the director of the Defense  
15 Counterintelligence and HUMINT Center.

16          Q           And, sir, when you retired, what was your  
17 military rank?

18          A           Brigadier general.

19          Q           What was your branch in the United States  
20 Army?

21          A           My entire career was in the military

1 intelligence branch.

2 Q And, sir, how long did you spend on active  
3 duty in the Army in the military intelligence office?

4 A 31 years and a couple months.

5 Q What I'd like to do now is talk about your  
6 career somewhat briefly. But starting with your first  
7 duty position, sir, what was your first duty position  
8 as a military intelligence officer?

9 A S2 of a combat engineer battalion.

10 Q And then what was your next job, sir?

11 A Special security officer running SCIFs on  
12 behalf of intelligence in the security command.

13 Q And then about what year was that, sir,  
14 that you were a SSO?

15 A 1984/'85.

16 Q What about your next job, sir?

17 A I then went to, for about four plus years  
18 to the second army division forward in Germany where I  
19 was assistant brigade to secretary of general staff of  
20 the CG and commanded a combat electronic warfare intel  
21 company.

1           Q           Sir, was that your company command as the  
2 military intelligence officer?

3           A           That was one of a couple commands, yes.

4           Q           What was your next command, sir, as a  
5 military intelligence officer?

6           A           I commanded the Army ground detachment for  
7 the joint stars effort in Desert Storm.

8           Q           In general, what did that consist of, sir,  
9 at least what were you responsible for as the battalion  
10 commander?

11          A           That was another detachment command. I was  
12 responsible for about 45 young soldiers that took the  
13 joint star system out of the acquisition process and  
14 put it to use in Desert Storm. First time it ever went  
15 to the battlefield.

16          Q           And, sir, what's your next command after  
17 that detachment command?

18          A           It was a battalion command, I commanded a  
19 SigInt battalion at Ft. Gordon, Georgia.

20          Q           What were the general responsibilities of  
21 that battalion you commanded?

1           A           Oversaw about 400 plus young SigInt  
2 soldiers who worked inside what was known as the Gordon  
3 Regional Security Operations Center now known as NSA  
4 Georgia.

5           Q           What do you remember, sir, about the 400  
6 SigInt soldiers? What type of soldiers were they?

7           A           Soldiers that were working in the signals  
8 intelligence business. So they would receive  
9 information, intel collection and, you know, provide  
10 reports out to the force.

11          Q           Sir, before continuing, when you were the  
12 detachment commander of the joint stars program, was  
13 that in support of a military operation?

14          A           It was. It was in support of Desert Shield  
15 and Desert Storm.

16          Q           Were you deployed at that time?

17          A           I was deployed into Saudi Arabia and I had  
18 all around the country.

19          Q           Sir, what position did you hold after your  
20 battalion command at Ft. Gordon?

21          A           I went to INSCOM headquarters where I was

1 the assistant G3 for information operation.

2 Q Sir, before we continue with that job, what  
3 is, in a brief summary, what is INSCOM?

4 A INSCOM is the major command for the U.S.  
5 Army that oversees intelligence operations.

6 Q Sir, does INSCOM have a worldwide presence?

7 A It has a -- about 10 to 12,000 plus  
8 personnel spread out in 13 commands positioned globally  
9 and in nearly every theater of operation and war zone.

10 Q Sir, how do they support war fighting  
11 combatant commanders?

12 A INSCOM's job is not only to produce  
13 intelligence and push it down to the tactical force but  
14 it's to provide that integration with the national  
15 intel agencies to facilitate that flow of information  
16 that's needed for the battlefield.

17 Q One moment, please.

18 Sir, as the deputy G3 at INSCOM what were  
19 your general responsibilities at that time?

20 A At that time it was 2000/2001, my primary  
21 duty was to help the U.S. Army and INSCOM move forward

1 in the information operations business at that stage  
2 and I was the combat developer for computer network  
3 attack capabilities.

4 Q Sir, after your time as the INSCOM WJ3,  
5 excuse me, what job did you hold after that?

6 A I went to U.S. Army War College at Carlyle  
7 Barracks.

8 Q Did you have a thesis of any type?

9 A I did. I think, I think it was on  
10 something to do with security assistance work.

11 Q Where did you go after the War College,  
12 sir?

13 A I deployed to Bosnia where I was the J2 or  
14 senior intel officer of the stabilization force NATO in  
15 Bosnia, as well as the J2 for the US team there in  
16 Bosnia overseeing the US National Intel Center and I  
17 was the chief of staff of the Joint Interagency Task  
18 Force for counterterrorism there in Bosnia.

19 Q All those, those three hats you wore at the  
20 same time?

21 A Simultaneous, exactly.

1           Q           Were you the senior intel DoD official at  
2 the time in Bosnia?

3           A           Absolutely.

4           Q           What were your general responsibilities as  
5 senior intel official in Bosnia at that time, sir?

6           A           To oversee the NATO intelligence structure,  
7 to provide analytical reports to the command, to work  
8 the tasking associated with the assets, the intel  
9 collection assets, to place demands on the US system so  
10 that the intel flow from the US system would make its  
11 way into NATO and support all of us there in Bosnia.

12                   It was a general role as a senior  
13 intelligence officer of a command engaged in an  
14 operation or a mission.

15           Q           So, sir, in reference to what the United  
16 States intends to offer for your expertise, what  
17 experience did you receive as the J2 in Bosnia at the  
18 time with information sharing among foreign partners?

19           A           A huge responsibility.

20                   In that time and at that point the  
21 predominant producer of intel in that environment was

1 the United States military. And it was critical that  
2 we create the processes, the means to both protect our  
3 sources and our capabilities and at the same time  
4 ensure that we push the information legitimate,  
5 legally, and correctly into the NATO channels so that  
6 we could have a seamless understanding of the  
7 battlefield across all the various nations that were  
8 working in that environment.

9 Q So to the best of your memory, sir, I know  
10 it's been a few years and, of course, in a classified  
11 manner, about how many different foreign partners were  
12 you dealing with on a daily or weekly basis? An  
13 estimate, sir?

14 A On a daily or weekly basis at least 20, you  
15 know, in a series of a month it might be more than 20,  
16 but.

17 Q When conducting operations with them, how  
18 did that include information sharing or intelligence  
19 sharing?

20 A Well, it, you know, it included, it  
21 included making sure that as much of the US information



1     that was available found its way into the correct  
2     process flow to migrate into the NATO networks.

3           Q       And, sir, what about your experience then  
4     with coalition forces, is that similar?

5           A       It is similar. Obviously a coalition  
6     environment might not have the maturity of rules and  
7     processes that a NATO environment has and we built over  
8     time.

9                    So, you know, a lot more has to come with  
10    experience and understanding knowledge and just  
11    practical application as to how to make things work in  
12    that type of environment.

13          Q       And, sir, after your time as the J2 in  
14    Bosnia, what was your next assignment?

15          A       I returned to the United States for brigade  
16    command. I commanded a brigade in the INSCOM command  
17    and this particular brigade was overseeing the joint  
18    operation at the Gordon Regional Security Operations  
19    Center, which is a signals intelligence organization  
20    now known as NSA George.

21          Q       Sir, how do you distinguish, other than

1    what is battalion and brigade command, your  
2    responsibilities as battalion commander for a certain  
3    battalion and coming back to Ft. Gordon as the brigade  
4    commander for an entire brigade?

5           A           Significance difference. Size and scope  
6    and magnitude being one. You move from 400 soldiers to  
7    about 2,200, Army, Navy, Air Force and Marine and  
8    civilians that are working.

9                    The second thing is I had a much bigger  
10   operation. The Army piece of that operation was very,  
11   somewhat small, 50, 60 folks and as a battalion  
12   commander. As a brigade commander I had to oversee the  
13   entire operation of that regional center. And that  
14   regional center was to take, you know, operational and  
15   national level intelligence and push it out to the war  
16   fight.

17                   In this case during that time 2003/2005 we  
18   were engaged in supporting both Iraq and Afghanistan  
19   operations directly from there.

20           Q           And by support, sir, just generically, what  
21   do you mean?

1           A           By support meaning that we were responding  
2           to the priorities and the requirements and the needs of  
3           the tactical commanders on the ground and that we were  
4           executing that collection and turning it into  
5           information of value that could be used by forces.

6           Q           Sir, after your time as brigade commander  
7           of the Gordon facility, where did you go after that?

8           A           I was then assigned as the assistant J2 for  
9           the Joint Chief of Staff.

10          Q           And what were your general duties there,  
11          sir, as the assistant J2 on the Joint Staff?

12          A           Oversaw a number of areas for the J2 to  
13          keep the organization running. Certainly reviewed and  
14          validated everything that was heading into the J2. I  
15          was the J2 representative to the morning brief to the  
16          J3 every morning in the National Military Command  
17          Center.

18                      I was the primary interface to Congress for  
19          the J2 and the various intel committees.

20                      And then represented the J2 in his absence.

21                      There were other duties in there I think,

1     you know what, always work in processes in terms of  
2     information sharing with coalitions and of course those  
3     things have certain processes that you work through the  
4     interagency and things.

5                     I certainly was the person that represented  
6     the J2 on a number of those things and I participated  
7     in detainee review processes, the J2 representative  
8     there.

9             Q             So, sir, just taking a few of those one at  
10     a time.

11                     What was your specific role as the deputy  
12     J2 on the Joint Staff as information sharing, first  
13     start within the United States Government?

14             A             Well, I think basically to be able to help  
15     the J2s. The Joint Staff sits, you know, in a place  
16     between the 10 combatant commands and the Secretary of  
17     Defense and so the J2s of these various commands had  
18     that responsibility to work the intelligence operation  
19     mechanisms in their particular command.

20                     If they struggled with, you know, needing  
21     additional authorities or needing more coordination

1     between the national level then the Joint Staff would  
2     step in there and attempt to work that and negotiate  
3     that between intel agencies at the national level and  
4     so we get the best support and best information down to  
5     the commanders and our service members.

6           Q       And, sir, in that capacity what about  
7     information sharing between the United States  
8     Government and foreign partners?

9           A       Certainly we worked a number of those  
10    processes as we matured in both theaters at the time of  
11    Afghanistan and Iraq.

12                   There were some number of processes ongoing  
13    to mature our ability to be able to share with the  
14    coalition of the day and those coalitions changed over  
15    time and we wanted to make sure that that info sharing  
16    continued as that coalition grew.

17           Q       So in reference to coalition, sir, what is  
18    at least the difference, if any, between foreign  
19    partner information sharing and coalition forces  
20    information sharing?

21           A       Yes. I think the difference would be, you

1 know, a coalition is a team that comes together from a  
2 number of nations to go after -- they agree to go after  
3 or work together to solve a particular problem. That  
4 coalition has folks that move in and out of that  
5 coalition. It often is not something that necessarily  
6 may stay together when that problem set is gone.

7           And so, you know, you've got to understand  
8 the business, you've got to be nimble, you've got to  
9 have some experience, and you've got to work through  
10 what often is a new challenge constantly because this  
11 coalition might not have the 50 years of experience  
12 that NATO might bring in terms of an information  
13 sharing arrangement.

14           In relationship with a foreign partner is a  
15 little different in my mind in the sense that you're  
16 looking for more of a long-term relationship between  
17 either military-to-military, be it the US to the German  
18 military, or the UK military and that kind of stuff  
19 where there's enduring relationships and you've created  
20 a long-term partnership that's in the best interest of  
21 the two nations. And those foreign partnerships then

1 extend to the national level as well.

2 So you might have a national agency inside  
3 the United States that creates a relationship with a  
4 national agency of a foreign nation.

5 So there's my distinction between a foreign  
6 partner and what would be coalition operation.

7 Q Sir, as the deputy J2 of the Joint Staff,  
8 how did you oversee and I guess operate within the DoD  
9 intelligence operations field?

10 A Well certainly the J2 has the  
11 responsibility to be able to, first of all, J2 is the  
12 senior intel officer for the chairman. So he's  
13 responsible for informing the chairman of the  
14 intelligence picture.

15 The J2 also has the responsibility to the  
16 chairman as well as to the Secretary to Defense and  
17 Under Secretary of Defense for Intelligence, that those  
18 resources that the nation has given to the services and  
19 to the Department of Defense to conduct intelligence  
20 are, you know, being used properly, being used  
21 effectively and being managed in a way that brings out

1 the results that we need.

2 Q And, sir, after your time as the deputy J2  
3 of the Joint Staff, where was your next assignment?

4 A At that point I was selected for brigadier  
5 general and I took my first assignment as a general. I  
6 was the senior intelligence officer J2 at the European  
7 Command in Germany.

8 Q Sir, is this the United States Army  
9 European Command or the combatant?

10 A This is the Combatant Command, the United  
11 States European Command.

12 Q What were your general responsibilities  
13 there as the J2 for EUCOM?

14 A So all of those responsibilities inherently  
15 come with being a senior intelligence officer for a  
16 four-star general.

17 There was approximate work force of about a  
18 thousand military personnel and civilians that operated  
19 underneath the J2. It's a very mature theater, both in  
20 terms of information access as well as dissemination.

21 Then we, at the time, the Africa command



1 had not been created so we had Department of Defense  
2 intel responsibilities for about 90 plus countries  
3 throughout Europe and Africa.

4 Q And, sir, in that capacity as the J2 of  
5 EUCOM, what was your experience of information sharing  
6 within the United States Government?

7 A So a number of areas. In particular you're  
8 always concerned with force protection and whether you  
9 have a number of forces that were down on the African  
10 environment training and educating and building  
11 relationships, partnerships down in that environment.

12 You were always wanting to make sure that  
13 you had full awareness of any threats that might exist.  
14 So you had to work within the many other arms of the  
15 U.S. Government to ensure that information flow was  
16 getting into the proper channels to support those  
17 troops.

18 You, at this time, there was certainly a  
19 number of concerns that were force protection threats  
20 within the environment and Europe and one of the big  
21 ones was the IJU case in Germany where the Islamic

1 Jihad Union was threatening to go after ram sight  
2 (phonetic) and that particular case was solved during  
3 my venture there and it was an incredible information  
4 sharing environment between the foreign governments,  
5 being the German Government, the US FBI, and other  
6 intel agencies that needed to come together and  
7 cooperate so that we could protect US families and  
8 service members from this particular threat that was  
9 developing there in Germany.

10 Q So, sir, a moment ago you mentioned or  
11 testified about information flow down to the supporting  
12 troops in Africa, what do you mean by that, sir?

13 A Well, what I mean is that, you know, if an  
14 intel system picks up a threat or a force protection  
15 concern about a particular location or a particular  
16 individual or a particular unit that may be operating  
17 somewhere, it's incumbent upon senior intel officers to  
18 put the processes in place so that the data can move to  
19 the commander that can make the right decision to take  
20 protective steps and mitigate the risk, at the same  
21 time attempt to continue to accomplish his mission.

1           Q           Sir, so that's information sharing within  
2 the U.S. Government. It sounds like you also, if you  
3 agree, testified about information sharing with foreign  
4 partners with your example?

5           A           That was one example.

6                       Another example was when Chad almost  
7 crumbled in the -- I can't remember whether it was 2007  
8 or 2008 timeframe, but Chad almost crumbled and we had  
9 American citizens in that country. We had a lot of  
10 French citizens, French had a lot of responsibilities.

11                      And we had to go to some extraordinary  
12 measures to create the right information sharing  
13 environment with the French Government so that we both  
14 had a common understanding of what was going on and  
15 this small number of personnel that were on the ground  
16 could reach support and protect each other. That was  
17 actually quite an information sharing success.

18                      We worked with the French, with the  
19 European Command, as well as other NATO partners to, to  
20 ensure that intel and that information was well-shared.

21           Q           Sir, after your time as a J2 of EUCOM what

1 was your next duty assignment as a flag officer?

2 A I was then sent to Kabul, Afghanistan where  
3 I was dual-hatted as the ISAF J2, the NATO command  
4 there as well as the US forces Afghanistan J2.

5 Q What were your general responsibilities  
6 versus the ISAF NATO J2?

7 A Again, you're the senior intel officer for  
8 the four-star commander there so you have all of those  
9 responsibilities to ensure the intel system is working  
10 and ensure it's focused on the property priorities and  
11 the requirements of the command.

12 You have great responsibility in  
13 orchestrating the collection, overseeing the analytical  
14 products and to make sure, especially in a war zone, to  
15 make sure that the information flow is getting down to  
16 the commanders on the ground that need that  
17 information.

18 In this case it was also trying to blend  
19 the NATO and the US networks to the fullest extent  
20 possible and at the same time to bring in those  
21 coalition partners because in addition to the NATO team

1     that was in Afghanistan there were a number of other  
2     countries that were not necessarily NATO that wanted to  
3     join us in that particular effort. And then during my  
4     time there and the folks that followed me certainly we  
5     had worked incredibly hard to broaden that coalition  
6     and that information sharing with our Afghan partners  
7     who ultimately need that support so we can get out of  
8     it.

9           Q           Sir, you used two terms. If you could just  
10    define for the Court, when you say intel system, what  
11    do you mean, sir, as the senior intel officer  
12    overseeing the intel system?

13          A           Yes. We define that whole thing as intel  
14    operations and so you want to have the confidence that  
15    the entirety of the intel operation is operating  
16    effectively.

17                    I think because the intel operation is a  
18    series of practices and procedures and IT networks and  
19    there's just, there's all kinds of systems in there. I  
20    think system is my way of just describing all of the  
21    connections that take place as you work through intel

1 processes.

2 Q Sir, when you talk about intel processes  
3 and connections, are you talking strictly computer  
4 networks or are you talking about also human  
5 interaction, could you explain that some more?

6 A Yeah, in my mind I'm talking about, you  
7 know, the human interaction that's necessary, the daily  
8 meetings and briefings that need to take place, the  
9 various forums where you bring people together to  
10 communicate and reach conclusions and then you have to  
11 talk about the massive amount of networks and  
12 information systems.

13 I mean, the intel community couldn't live  
14 without significant IT capabilities and the ability to  
15 constantly acquire, to manage, and to access that  
16 information in real time.

17 Q Sir, in this intel operation and system  
18 where do intel analysts fall within that scope of what  
19 you were earlier saying?

20 A Most every, I won't say every, but most  
21 every intel operation and certainly those that are in

1    what you would call the S2 or the J2, the intelligence  
2    officer in support of the command has a number of  
3    analysts that span from the most junior person up to  
4    perhaps your senior analyst that may have 20 plus years  
5    of experience.

6                   And those folks are critical.  They, they  
7    make value out of all of this information that comes  
8    in.  They have to understand the environment that  
9    they're in.  They have to understand the questions that  
10   are important to a commander.  And they have to be able  
11   to gather data, put it together and tell a story.

12           Q       And, sir, when you also testified about  
13   intel systems and operations, you mentioned collection,  
14   what did you mean by collection, sir?

15           A       Collection is the art of taking a system  
16   and gathering information and an example of that would  
17   merely be an antenna, if you put it out it's going to  
18   grab radio signals.

19                   Another example might be a UAB.

20                   Another example might be sending a human  
21   source out to ask for information from the human.

1                   So the collection is that art of how you go  
2 about acquiring the information that's important.

3           Q       Sir, as the NATO ISAF, sir, how do you  
4 distinguish between your responsibilities as the US  
5 forces Afghanistan J2 and the NATO ISAF J2?

6           A       So as the NATO ISAF J2 my responsibilities  
7 included providing the intel function, the intel  
8 knowledge, and the support to support commanders  
9 whether they were in the Italian operation out in  
10 Western Afghanistan, whether they were the Dutch  
11 running the operation in Kandahar, or whether it was  
12 the Germans up in Mazari-i-Sharif, I had to make sure  
13 that system was supporting all of the components of  
14 NATO that were out there.

15                   In doing that, I orchestrated on the ground  
16 the resources that we had and a advocated backup  
17 through to the NATO headquarters for, for more  
18 resources or processes or authorities and that kind of  
19 stuff.

20                   From a US foray standpoint, my job was to  
21 reach back into CENTCOM and my job to reach back into



1 CENTCOM was to help work with CENTCOM so we managed the  
2 US processes in a way that nested with NATO so there  
3 was not overlap, there was not duplication.

4 We got the most benefit from those  
5 resources that we were putting in there, and we did it  
6 in a way that allowed that information flow to be of  
7 benefit to our coalition and our NATO partners.

8 Q Sir, what was the next, what was your next  
9 duty assignment after, I'm sorry, sir -- thank you,  
10 sir.

11 What was your next assignment after being  
12 the US --

13 A I came home from Afghanistan and then I  
14 took the position we talked about at the very  
15 beginning, the director of the Defense  
16 Counterintelligence and HUMINT Center in the Defense  
17 Intelligence Agency.

18 Q Sir, that capacity as the director of the  
19 DCHC, how did you oversee DoD intelligence operations?

20 A I didn't oversee all of DoD intel  
21 operations but at that point I was specifically

1 overseeing defense HUMINT and counterintelligence  
2 operations.

3 And, you know, about 5,000 personnel spread  
4 out around the globe.

5 Q And generally speaking, sir, in an  
6 unclassified manner, what type of personnel, analysts,  
7 collectors? What are they, sir?

8 A It was a combination of reporters,  
9 analysts, collectors. They ran, you know, from various  
10 levels, very junior to very senior folks, experienced  
11 and then but generally you're looking at a management  
12 layer and reporters, collectors and analysts.

13 Q And, sir, in that capacity as the, in your  
14 last active duty job in the Army and NDIA, what about  
15 your experience or duty with information sharing within  
16 the United States Government?

17 A On a number of levels. Information sharing  
18 in the HUMINT world is one of the most complex and one  
19 of the most difficult to work through.

20 Folks that run HUMINT operations have a  
21 relationship with their sources. They have an

1 obligation to protect their sources. And in many cases  
2 sources that work in, you know, at their own peril and  
3 at their own risk.

4 So the HUMINT world is one of the most  
5 difficult to work through that information sharing  
6 because you really have that personal connection to  
7 protect your source and protect your ability to do this  
8 function.

9 So we have a lot of experience in working  
10 through how do we integrate the entire DoD system and  
11 it's an evolutionary process.

12 You can imagine that it's a very similar  
13 situation where you get into the counterintelligence  
14 arena.

15 Counterintelligence borders the law  
16 enforcement area as well as working that particular  
17 counterintel against an adversarial intelligence agency  
18 and you can imagine the secrecy associated with trying  
19 to protect your investigations and that kind of stuff.

20 Part of that job and that information  
21 sharing within the U.S. Government is to make sure

1     that, you know, that law enforcement seam could be  
2     bridged to the intel community for force protection  
3     support, as well as to make sure that, as you had one  
4     service working on a investigation that there was not  
5     data contained in there that might help another service  
6     and it wasn't being shared.

7                     So we were often working through various  
8     forums and panels and groups to bridge those service  
9     investigatory processes and to work, to protect the  
10    department as a whole from not sharing information to  
11    the fullest extent.

12            Q        Sir, as the director of the DCHC DIA what  
13    about your experiences, sir, with intelligence sharing  
14    with foreign partners then also of course with  
15    coalition forces?

16            A        Yes. So probably in a number of areas, in  
17    that position I had elements that were deployed in both  
18    war zones, and so those folks, although they worked at  
19    the direction of the U.S. Government, it was their  
20    responsibility there to ensure that as they went  
21    through their processes they were sharing information

1 with the US command that would enable and assist the  
2 coalition or the NATO structure that was in place.

3 In addition the Defense Counterintelligence  
4 and HUMINT Center oversaw the attaché program and as  
5 you may well be aware, attachés are positioned within  
6 the embassies across the world and their job is to  
7 develop those relationships with ministry of defense  
8 and defense elements and other nations in our foreign  
9 partners and, of course, that requires an element of  
10 information sharing, of conversation and being able to,  
11 you know, develop that relationship by getting common  
12 understanding and working through information sharing.

13 Q Sir, in your role as a director of the  
14 DCHC, what was your role with the defense attaché  
15 office and ultimately all the attachés?

16 A I was, I had an individual who ran the  
17 program for me. I think I rated a number of attachés  
18 throughout the world as their senior rater, you know,  
19 hundreds of them that I was involved with rating.

20 I would work to oversee and put processes  
21 in place that supported them, whether they were in

1 times of crisis in Syria or whether they were working  
2 through issues in Japan with the nuclear stuff. I had  
3 to overlook for their safety and then ensure they were  
4 well taken care of and to ensure that the processes in  
5 place allowed their activities to go to the full  
6 business of the Department of Defense.

7 Q Sir, were you in charge of the entire  
8 attaché corps?

9 A You know, I don't recall whether I was  
10 actually designated as the director of the attaché  
11 service.

12 Q Yes.

13 A But I had subordinates that oversaw that  
14 program for me and at the end of the day it, you know,  
15 it ran right through, right through me before it went  
16 up to the director of DIA.

17 Q Thank you, sir.

18 Sir, before we continue with your  
19 background, could you please explain to the Court kind  
20 of generically what, how the military intelligence, DoD  
21 intelligence system overall is broken down through the

1 tactical operational strategic levels?

2 A It's large, it's complex, it's very  
3 technical. It has probably some of the finest service  
4 members in it.

5 It, at the top level it begins with some  
6 big agencies that have split responsibilities, both to  
7 the Department of Defense and to the national community  
8 and I refer to things such as the National Security  
9 Agency or the National Geospatial Agency.

10 Q Is that the strategic level, sir?

11 A That would be the strategic level. But it  
12 would, because of those organizations having  
13 responsibilities to support the military war fighter  
14 and certainly when US forces are in harms way and  
15 people are at the risk of dying, we expect those  
16 agencies to do everything they can within their power  
17 to move the right information down to protect our  
18 forces.

19 Then all of the services and the combatant  
20 commands have a layer, the combatant commands are what  
21 I'd say the operational level of intelligence.

1           Then the services have a layer of  
2 intelligence as well responsible for training personnel  
3 to work in the joint world, responsible for getting the  
4 processes in place for their tactical capabilities.

5           Then each of the services have their aspect  
6 of what might be referred to a tactical intelligence  
7 mission to support their service specific commanders.

8           In some cases a particular service may  
9 bring a capability to the Department of Defense on  
10 behalf of the whole department because the expertise is  
11 there.

12           You know, you wouldn't want the Army to do  
13 a acoustics intelligence under water, I mean, the Navy  
14 could do that best for the nation.

15           So it is a very complex process that's  
16 layered and has to work together in a, you know, one  
17 might hope a seamless environment and then all the  
18 information is shared collaboratively and gets to the  
19 right.

20           This didn't happen overnight. If you can  
21 go back in the history books, you can go to the Vietnam



1 era and you can see many examples of when, you know, we  
2 wanted to move more intel -- how do you take that  
3 national capability, how do you take that wealth of the  
4 nation and that capability that you've invested in and  
5 how do you make sure you defend that last soldier  
6 that's out there facing the enemy.

7 And so after Vietnam we started moving down  
8 this trail. We started building these tactical intel  
9 capabilities. We started empowering our forces so that  
10 they would have the information they needed to win on  
11 the battlefield.

12 And you got to Desert Storm and you could  
13 see it. All of a sudden, it became more digital and  
14 you could really see, not that it all happened  
15 perfectly there, but you could see the art of where you  
16 could go.

17 And then for the next decade or so we moved  
18 forward again and then as we got into Iraq and  
19 Afghanistan it was like, it was like an explosion of  
20 how we can really provide the best intel in the world  
21 to support our soldiers on the battlefield.

1           Q           So, sir, in that explanation where does a  
2           uniformed enlisted analyst fall? Is it only at the  
3           brigade tactical, lowest level tactical, the lowest  
4           tactical level?

5           A           You know, they fall throughout that,  
6           throughout that layer.

7                       Certainly a young enlisted intel specialist  
8           is going to learn the tools and the trade craft and the  
9           capability to work down at that lowest level, be it,  
10          you know, in some cases it's down to the company now  
11          but typically it was battalion.

12                      You certainly will see those populate  
13          inside the brigade. You'll see it within intel  
14          companies that might rest within a brigade and you'll  
15          see them on intel battalions scattered throughout the  
16          battlefield.

17                      But you'll also have junior enlisted  
18          soldiers that work in a division headquarters and work  
19          in a core headquarters. And even I sitting back at  
20          Ft. Gordon, as I oversaw signals intelligence  
21          operations, the overwhelming majority of my service

1 members that were working, you know, foreign languages  
2 in Iraqi, and all of this, these are young soldiers, E1  
3 to E4. Most of them, many, many of them on their first  
4 tour of duty.

5 Q Thank you, sir.

6 Sir, what military training have you  
7 received to become an intelligence officer? What was  
8 your first training course?

9 A Military intelligence officer basic course.

10 Q And then what advanced training?

11 A After intelligence officer, advanced  
12 course.

13 Q Any other formal military training to, that  
14 led you to as a senior intelligence officer within the  
15 Department of Defense?

16 A Generally officership you get into the  
17 command and general staff college, you get into the  
18 U.S. Army War College.

19 And then, you know, over the years at  
20 various times I would go to two or three-week courses  
21 that might, you know, focus me on or give me some

1 additional information in certain area.

2 For instance, you know, the basic SIGACT  
3 course, electronic warfare course. The indications and  
4 warnings course that was run. The senior cryptologic  
5 officers course. So various courses scattered  
6 throughout the career.

7 Q And in general, sir, well I think you  
8 already answered, sir, what type of training that  
9 consisted of by giving those examples.

10 What about civilian education? What  
11 civilian education do you have outside of the military?

12 A Bachelors of Business Administration with a  
13 emphasis in accounting. Graduate degree, Master's  
14 Degree in Public Administration with emphasis in  
15 comptrollership from University of Missouri and then as  
16 part of the War College I took a master's degree. I  
17 think it's a Master's Degree in Strategic Studies or  
18 something along those lines.

19 Q And, sir, based off of that training and  
20 then your previous assignments, what year do you  
21 estimate that you started being involved full time with

1 information sharing within the U.S. Government?

2 A I believe that that would be 1993 when I  
3 was the S3 for the Army brigade in support of the  
4 National Security Agency and that's really when I got  
5 into understanding how do we take data and information  
6 at the national level and get it out to the forces that  
7 we had.

8 So 1993 would be what I think is my first  
9 real exposure to that.

10 Q What about your first real exposure short  
11 of sharing information of foreign partners and  
12 coalition forces?

13 A Yes. At a lower level that actually  
14 started in Germany back in the 1985 to '89 timeframe.  
15 I happened to be in the brigade that was in the NATO  
16 sector so most of our, most of our training operations  
17 had French or Belgium or German or British components  
18 to it. And so at a low level as a captain it started  
19 then.

20 Probably again in the '93/'95 timeframe  
21 when I was at NSA I began to get more exposure to that

1    how do you work with foreign partners with info  
2    sharing.

3           Q        Sir, have you received any significant  
4    awards for your work in the intelligence and coalition  
5    operations area?

6           A        I've been recognized with various medals  
7    and for each assignment out there as well as a  
8    culminating award on retirement and also received a  
9    couple of distinguished awards from the ODNI, both for  
10   culmination of a career as well as my directorship of  
11   the IRTF.

12          Q        And so, sir, starting with those two ODNI  
13   awards, what is ODNI?

14          A        Office of director of national  
15   intelligence.  It's the cabinet level organization that  
16   oversees the United States intel community.

17          Q        And what awards did you receive from them,  
18   sir, or from the DNI?

19          A        I don't recall their exact names.  I  
20   apologize.  But, you know, as part of the IRTF, the  
21   IRTF as a whole was given a substantial award for their

1 effort.

2 Then at my retirement ceremony, the ODNI  
3 came in and gave me one of their senior distinguished  
4 awards for, you know, a career supporting the intel  
5 community.

6 Q And, sir, we'll get to this later, but just  
7 briefly, what is the IRTF?

8 A The IRTF is the Information Review Task  
9 Force.

10 Q And in general, sir, what was the IRTF?

11 A It was the effort that the Secretary of  
12 Defense put together that I led after the first release  
13 of the WikiLeaks materials, that was the effort to  
14 understand that and to identify the risk and to begin  
15 to mitigate the effects of that.

16 Q Thank you, sir.

17 Sir, have you ever taught in the field of  
18 intelligence?

19 A I have. Upon, upon retirement I was  
20 approached by Georgetown University and I do teach a  
21 course at Georgetown University in their master degree

1 program and national security studies. I teach a  
2 course on defense intelligence.

3 Q And in general, sir, what is that, kind of  
4 the purpose or focus of that course?

5 A The focus of that course is to take  
6 Georgetown students working toward their master's  
7 degree and understanding national security affairs to  
8 appreciate the magnitude of the defense intelligence  
9 system, what's out there and to help them understand  
10 the issues associated with the intel community, the  
11 defense department and working within the national  
12 intel structure.

13 Q Sir, prior to your retirement and taking on  
14 that adjunct professorship, did you also ever teach or  
15 lecture in the field of intelligence over your military  
16 career?

17 A Certainly gave a number of briefings. A  
18 number of professional development sessions to junior  
19 officers over the years or NCOs. But I managed not to,  
20 I tended to stay operational and not go into the  
21 schoolhouse to teach.



1 Q Yes, sir.

2 Sir, have you ever testified in a court  
3 martial as an expert in the field of DoD  
4 intelligence -- oh, have you ever testified in a court  
5 martial at all, sir?

6 A I think my only testimony in a court  
7 martial was as the commander once or twice I had to  
8 come in and provide testimony as the commander of a  
9 particular service member.

10 Q And, sir, when you did testify that once or  
11 twice, was it, were you testifying in the field of, as  
12 an expert in the field of DoD intelligence operations?

13 A No. I was, I was merely there as the  
14 commander.

15 Q Okay, sir.

16 Sir, have you ever testified before  
17 Congress?

18 A Many times.

19 Q And have you testified before Congress  
20 based on your expertise in the field of DoD  
21 intelligence operations?

1           A           Absolutely.

2           Q           And how about in the field of intelligence  
3 sharing within the United States Government?

4           A           Absolutely.

5           Q           And also intelligence sharing with foreign  
6 partners and coalition forces?

7           A           Yes, very much.

8           Q           And approximately, sir, how many times do  
9 you estimate you've testified before Congress on these  
10 subject matters?

11          A           I don't know an exact number. It exceeds  
12 10, it's less than 100.

13          Q           Now, sir, when you say testify, are you  
14 also including meeting with congressional staffers and  
15 Congress persons?

16          A           So testifying to me is sitting behind a  
17 table in front of a committee that's been called to  
18 order and you're answering questions.

19          Q           Okay, sir.

20          A           I've done that for a number of the  
21 committees, more in a closed session than in an open

1 session because of the topics. Probably done that, you  
2 know, half a dozen times or so. Having met with  
3 smaller groups of most members and staffers, you know,  
4 another couple dozens times.

5 Q Sir, was this testimony related to your  
6 expertise, as I asked before, in the DoD intelligence  
7 operations field?

8 A Yes. Most of them that I recall had to do  
9 with, you know, being the intel expert sitting as part  
10 of a particular team, either on Iraq, Afghanistan or,  
11 you know, HUMINT operations in general or a particular  
12 scenario response to a particular scenario or crisis  
13 that might be ongoing somewhere in the world.

14 Q Sir, were you ever relied upon for your  
15 expertise to testify in matters of the impact based off  
16 of the WikiLeaks disclosures and PFC Manning's conduct?

17 A I was.

18 Q Could you briefly explain overall how many  
19 times that you can remember and the general subject  
20 matter? I understand we're in open session, sir.

21 A Again, testifying in front of commission on

1 WikiLeaks issue, maybe four or five times.

2 And then meeting with certain members or  
3 staffers in smaller sessions that were not necessarily  
4 what, you know, official on-the-record testimony,  
5 probably another half a dozen times.

6 Q Sir, have you ever given your expert  
7 opinion relating to intelligence matters to senior  
8 officials within the U.S. Government?

9 A Every day a J2 briefs a four-star general,  
10 he's on the line and he's on the hook for providing the  
11 best expertise that you can at the time.

12 Q And then what about, again, very  
13 generically, sir, because we'll get into this more  
14 later, what about in terms of your role as overseeing  
15 the IRTF and doing the mitigation and damage  
16 assessments related to this case?

17 A Describe that role or have I ever had to  
18 give an opinion?

19 Q Have you ever given an opinion; yes, sir?

20 A In many times I've had to -- for a period  
21 of time there I was briefing senior officials almost on

1 a daily basis.

2 In some cases, you know, receiving briefs  
3 and participating in briefs the more senior. And  
4 certainly I've briefed this particular issue to a  
5 number of senior folks both in the Pentagon as well as  
6 in other places of the U.S. Government that would  
7 impact it.

8 Q Sir, when you say senior officials,  
9 although I know I asked the question about senior  
10 officials, who are you talking about in general?

11 A You know, as a matter of routine you're  
12 talking about, you know, a layer or two down from the  
13 Secretary of Defense kind of on a daily go. Certainly  
14 had to brief the Under Secretary of Defense for intel.  
15 Certainly had to brief the J2, the chairman, and on one  
16 occasion I had to go in personally with the Sec. Def.

17 Q Sir, have you ever represented the  
18 Department of Defense or DIA on intelligence matters  
19 with foreign governments?

20 A Yes.

21 Q Can you in a generic way explain that for

1 the Court and explain how you've had to represent the  
2 United States in that regard?

3 A You know, in numerous opportunities as the  
4 J2 in EUCOM I was the senior defense intel person there  
5 in the theater and, you know, had to very often engage  
6 with the senior intel official of Romania, Poland,  
7 Turkey, as we worked through how we would develop  
8 relationships, how we would do info sharing, where we  
9 would, you know, better create our relationships and  
10 our partnerships.

11 Q Thank you, sir.

12 Then, sir, your overall capacity in your  
13 past 31 years have you had experience with intel  
14 analysts with junior enlisted intel analysts providing,  
15 performing their duties within the DoD intelligence  
16 community?

17 A Absolutely. I often say that I can almost  
18 go back to every assignment and the success that I may  
19 have enjoyed in those places and I can often look to a  
20 young junior service member who, given the right tools,  
21 given the right information, given the right

1 opportunity often created a game-changing moment or a  
2 game-changing effort.

3 I can, I can recall events like that in  
4 Afghanistan. I can recall events like that at  
5 Ft. Gordon. I can tell you that young intel analysts  
6 in Bosnia made discoveries and analytical judgments  
7 that commanders accepted that were game-changing in our  
8 ability to transform the Bosnia environment.

9 It is hugely important to empower these  
10 young intel analysts and let them have everything they  
11 can to make a difference. And more times than not,  
12 they will truly shine.

13 Q Thank you, sir.

14 Your Honor, the United States at this time  
15 moves to offer Brigadier General Carr as an expert in  
16 DoD intelligence operations and intelligence sharing  
17 with the United States Government and with foreign  
18 partners in coalition forces?

19 MR. HURLEY: Ma'am, we make a objection to  
20 General Carr's expertise and we'd like to do voir dire  
21 in support of the objection.

1 Can we take a break?

2 THE COURT: Yes. I'll withhold ruling on  
3 this until I hear the defense's voir dire of the  
4 witness.

5 How long would you like?

6 MR. HURLEY: 10 minutes.

7 THE COURT: Please don't discuss your  
8 testimony or knowledge of the case with anyone during  
9 the recess and we will be recessed for 10 minutes.

10 (Court in recess.)

11 THE COURT: Court is called to order. Let  
12 the record reflect all parties present when the court  
13 last recessed are again present in Court.

14 Major Hurley?

15 VOIR DIRE BY MR. HURLEY:

16 Q General Carr, I remind you you're still  
17 under oath.

18 A Yes.

19 Q General Carr, as you indicated with the  
20 Government you never testified as an expert before in a  
21 court martial?



1           A           Only testified as a commander, yes.

2           Q           So as a fact witness?

3           A           Yes and character witness. That kind of  
4 stuff.

5           Q           You have testified before in your  
6 intelligence capacities before Congress?

7           A           I have.

8           Q           Were you qualified as an expert? When I  
9 say qualified, were you asked questions by the  
10 committees members to established your bona fides as an  
11 intelligence expert?

12          A           I don't think they went through a process  
13 specifically to validate me in that regard.

14                    There was certainly some questions that,  
15 you know, asked as to my background and what basis I  
16 might have come to them in brief. I think a selection  
17 was more by either the Defense Intelligence Agency or  
18 by the Joint Staff who decided that I would represent  
19 the chairman in front of that particular panel.

20          Q           It was a function often of your duty  
21 position, correct?

1           A           More cases than not, it was a function of  
2 my duty position but at the end of the day in most  
3 cases the chairman is the person that's summoned to  
4 Congress and then he makes the selection on who is the  
5 best expert on the staff to represent him for a  
6 particular topic.

7           Q           So when you went to Congress and testified  
8 did you produce yourself as an expert?

9           A           No, I introduced myself as who I am and the  
10 position that I was there and why I was there.

11          Q           And so you never, before today, introduced  
12 yourself as an intelligence expert in DoD intelligence  
13 operations.

14          A           I don't know that I've personally  
15 introduced myself in that way. I know I've certainly  
16 stood up for speeches and stood up in various forms  
17 where those that were hosting introduced me that way.

18          Q           Were you ever introduced as an expert in  
19 information sharing inside the United States  
20 Government?

21          A           Not sure I've been introduced in that

1 particular way. I've certainly been brought before a  
2 number of different forums where information sharing  
3 was the key topic of interest and a discussion point  
4 for that particular event.

5 Q Ever held yourself out as an expert in  
6 information sharing within the United States  
7 Government?

8 A On a personal level, I've never stood up  
9 and professed that but I've often been put in the place  
10 where I was asked by the seniors to be the key  
11 representative of a particular --

12 Q I'll have the same questions for the other  
13 areas of expertise.

14 Ever held yourself out as an expert in  
15 information sharing with foreign partners?

16 A You know, again, I don't know that I would  
17 get up on the public stand and cheerlead and say that's  
18 the case but significant experience in doing it and  
19 didn't shy away with it and was more than prepared to  
20 meet the functions that were required in my duty  
21 position to execute those functions.

1           Q           Last one, ever held yourself out as an  
2 expert in information sharing within coalition  
3 operations?

4           A           Again, I don't know that I've ever done  
5 that on public platform but, you know, at some point in  
6 time when I retired there probably wasn't too many  
7 people that have had as much experience in doing that.

8           Q           There are other people with similar levels  
9 of experience though; is that right?

10          A           There certainly are today.

11          Q           Yesterday we had a conversation, do you  
12 recall us talking in the witness trailer?

13          A           Yes.

14          Q           And you indicated that other intelligence  
15 general officers would have a similar level of  
16 expertise?

17          A           I think other U.S. Army intel officers at  
18 the general officer level that have had the common set  
19 of experiences that I've had would have the same level  
20 of expertise.

21                    I don't think that general officers or flag

1 officers in the other intel services necessarily have  
2 that same experience that the U.S. Army has had as a  
3 result of the positions and the placements and the  
4 functions that we often perform.

5 Q So by your answer, you would neck that  
6 group of people down to not just intelligence GOs but  
7 Army intelligence GOs?

8 A My personal opinion is that in those areas  
9 that you mentioned, Army intel general officers tend to  
10 have more experience and expertise in those areas.

11 Q Have you ever met anyone that held himself  
12 or herself out as an expert in DoD intelligence  
13 operations?

14 A I've certainly not only heard myself but  
15 I've heard others be introduced at various forums where  
16 they were acknowledged by the organization that was  
17 hosting them and asking them to speak as, you know,  
18 experts in defense intelligence operations as a result  
19 of their participation in a particular event or crisis  
20 or war zone.

21 Q So you never heard anyone say, I'm an

1 intelligence, an expert in Department of Defense  
2 intelligence operations?

3 A I don't know that I've ever heard anyone  
4 say that.

5 Q Can you recall?

6 A I can't recall the exact spot that someone  
7 might have said that.

8 Q Have you ever, we'll go with all the info  
9 sharings and I'll ask them all at once.

10 Have you ever heard someone say, hi, I'm an  
11 expert in information sharing within the United States  
12 Government, with foreign partners, or with coalition  
13 forces?

14 A I have. And the art of policy and  
15 disclosure is in fact a functional feel and there are  
16 people that have applied that trait for a long period  
17 of time.

18 Q Have you worked with these individuals,  
19 these individuals that hold themselves out as experts?

20 A I have on occasion.

21 Q Are you familiar with what facts and

1 circumstances they, the facts and data, I'm sorry, not  
2 facts and circumstances, facts and data they use in  
3 applying their expertise?

4 A Regulatory guidance and I guess in some  
5 cases there's probably some law out there, but  
6 regulatory guidance on law and then it's the question  
7 of experience.

8 I mean, in some cases as the J2, wherever  
9 you are, and certainly in the bigger J2 positions,  
10 you're going to find folks on your staff that have some  
11 training in this particular area. And you supervise  
12 them and you lead them.

13 Q Just to sum up. The sufficient facts or  
14 data that you're aware of would be regulatory guidance,  
15 legal guidance, or just the law itself and their  
16 experience; is that right?

17 A When we're talking about the folks that I  
18 mentioned, the type of folks that might be on your  
19 staff as the lead individual for policy I think that's  
20 probably a pretty good one.

21 Q Right. I'm sorry to interrupt you, sir,

1 but it's important. I'm not talking about those  
2 people. I'm talking about the people that hold  
3 themselves out as experts in information sharing within  
4 the United States Government with foreign partners and  
5 with coalition partners. That's who I'm talking about.

6 A Well, again, who are these people that  
7 actually would hold themselves out? You know, if I  
8 were to want to say I'd hold myself out that way, I  
9 would be looking at things that, you know, you had  
10 experience, you've successfully applied it and perhaps  
11 more importantly you've done it in a way that hasn't  
12 caused, you know, wrongdoing and you've been able to  
13 apply that knowledge at an expert level where you have  
14 created solutions that allow us to get to success.

15 At the end of the day most -- a lot of  
16 this, again, the difference between a NATO environment  
17 that evolves over a long period of time and a  
18 collation, a coalition often has to come together very  
19 fast. It takes people who understand the left and  
20 right boundaries that can form ideas together and  
21 create solutions that allow us to be successful.



1           Q           Okay. Sir, I apologize, I'm confused by  
2 your answer.

3                   My question is this: Experts in the field  
4 of information and sharing inside the United States  
5 Government, information sharing with foreign partners  
6 and with coalition forces do you know what facts or  
7 data they would use to make the determination, to make  
8 their opinions, their expert opinions?

9           A           I don't know that that answer is the same  
10 for every organizational structure.

11                   I would say that a particular national  
12 agency would have a office where a group of people that  
13 would oversee their foreign partner relationships.

14                   Their expertise and their guidelines would  
15 be based on a full understanding of the capabilities  
16 and the limitations of their particular organization.  
17 A full understanding of the intent by the leadership of  
18 the organization and the U.S. Government as to what  
19 they need to accomplish. An understanding of what the  
20 laws is or the particular policies and regulations.  
21 And then they would have to apply those three things to

1 create the answers and the solutions that would suffice  
2 to be at the expert level.

3 Q Yes, sir.

4 And that's a, you're surmising that, right,  
5 you're just -- you're using your expertise and you're  
6 saying, well, this is what I would do?

7 A Well, that and I've watched people do it  
8 and I've done it myself.

9 Q So you, you do know what facts or data are  
10 used by experts in those fields that we're talking  
11 about, info sharing?

12 A I cannot cite you the exact regulatory  
13 number or all of the policy statements that are out  
14 there but I think I can explain the thought processes,  
15 what would go into that equation as they attempted to  
16 apply their expertise.

17 Q Right.

18 These other experts we're talking about,  
19 not your expertise, these other experts?

20 A Right.

21 Q So you've made opinions with respect to the

1 disclosures in this case; is that correct?

2 A I have. I've made judgments and --

3 Q Okay. With that, I don't want to get into  
4 specifics of those opinions or judgments yet.

5 Did you make those judgments considering  
6 the type of information that is normally considered by  
7 experts in DoD intelligence operations and in  
8 information sharing?

9 A I think there are ideas that come from  
10 those two bodies of knowledge but I think it was  
11 blended with a number of other things that had to do  
12 with the environment, the situation, and then coming to  
13 a comprehension of basically something that had not  
14 been witnessed before, had not been experienced before  
15 and so, you know, there wasn't really a playbook. You  
16 had to put your knowledge, your expertise together and  
17 come to those judgments with this new situation.

18 Q But, sir, there are, there's a normal  
19 process that one would go through, would you agree with  
20 that?

21 A There was nothing about WikiLeaks that was

1 normal.

2 Q Well there's a normal process that you go  
3 through when you're addressing a problem.

4 A There's certain problem solving  
5 methodologies and we get trained on that kind of stuff,  
6 sure.

7 Q As you went through and rendered these  
8 expert judgments, is this the type -- are the expert  
9 judgments that you've rendered based on the information  
10 that are normally considered by other experts?

11 A I'm not sure I completely follow your  
12 question there but what I, you know, I didn't lock  
13 myself in a room and come up with these conclusions.

14 I had a fairly significant staff of  
15 analysts. Some of them were skilled in information  
16 sharing. Some of them were skilled in  
17 counterintelligence. Some of them were skilled in just  
18 general intel analysis. Some of them were skilled in  
19 the operational art. And so they all provided  
20 knowledge to me and I guided them as we reached  
21 conclusions.

1           Q           All right, sir. We'll move on.

2                       Have you shared any of these opinions and  
3 judgments with the other experts in DoD intelligence  
4 operations and information sharing, the other experts  
5 that you know of, have you shared your personal  
6 conclusions and judgments?

7           A           Certainly as I was going through the  
8 process of being the director of the IRTF, I had to  
9 share my thoughts and the implications, if not on a  
10 daily, maybe an every other day basis with folks that I  
11 considered experts. For instance, the person who was  
12 the J2 in the Central Command, I would put him in, you  
13 know, as an expert, and I certainly worked with him.

14          Q           I'm sorry, sir, I misspoke.

15                       The opinions that you have now in 2013,  
16 these opinions and judgments, have you gone back and  
17 shared those with any of the other experts that you  
18 know of, the people that you would consider experts?

19          A           I haven't talked to any of those folks  
20 since I retired. I certainly haven't talked to them  
21 about this particular case.

1           Q           Did you ever -- you gathered the facts and  
2           the data that you used, right? Because you based your  
3           judgments and opinions on facts and data, correct?

4           A           (Nodding, yes.)

5           Q           As you gathered that together, did you ever  
6           try to come up with alternative explanations for the  
7           facts and data that you were presented with?

8           A           Certainly tried to come up with competing  
9           analysis and look at other opportunities and, you know,  
10          whether you could discount something or whether it  
11          needed to be a second opinion perhaps just a lower  
12          confidence level, but certainly couldn't be overlooked.

13          Q           Did you ever turn to these other experts  
14          that you know of to try to come up with alternative  
15          explanations for these facts?

16          A           At the time when I was in the IRTF --

17          Q           Yes, sir.

18          A           -- I did.

19          Q           And they would provide you their insights  
20          based on their own experience?

21          A           Yes.

1           Q           When we talked yesterday, one thing you  
2           indicated in your talk was as you looked at the data  
3           you received you took it at face value. Do you recall  
4           telling me that?

5           A           I don't remember that exact term but can  
6           you put it in context there for me? Help me out?

7           Q           Sir, of course I can.

8                       You would get information, whatever it is,  
9           and you wouldn't question it was contained in there,  
10          you would take that information for what it said on the  
11          piece of paper. It was what it was. You took that  
12          information at face value. You didn't dig deeper on  
13          the information that you received to see if those facts  
14          were really accurate or not is what I'm saying?

15          A           Yeah, I'm not, you know, I'm not sure I  
16          would agree that all cases or all data that came in was  
17          of equal significance.

18                      If you were referring to a spot report or a  
19          significant activities report off the battlefield, I  
20          never picked up the phone and called the battlefield  
21          commander and asked to, you know, explain that.

1           I will tell you that I did ask my staff on  
2 more than one occasion to explore and make sure we  
3 understand that because the way it's written it might  
4 have one meaning or another meaning. And I asked my  
5 staff to, you know, continue to work through and make  
6 sure that they had a clear understanding.

7           Same thing with other impacts that might  
8 have been out of the attaché world or something. I  
9 didn't personally go back and do that.

10          Q       With those, if there was an area for  
11 interpretation you would push back. But if you got the  
12 report you never questioned the validity of what was in  
13 the report, you used this data in the process of  
14 performing your job as a director of the IRTF or in  
15 whatever way it was appropriate you thought at the  
16 time?

17          A       If the data didn't present itself in a way  
18 that caused me to question its validity, I accepted it  
19 and moved on.

20                I think all of us get presented data,  
21 certainly in the intel community you're always looking



1 at data and wondering its validity. It's part of the  
2 intel business. But if I didn't question it, no.

3 Q Sir, we have talked a couple of times about  
4 our conversation yesterday. Yesterday we talked about  
5 intelligence priorities; is that right?

6 A We did.

7 Q And we talked at length about intelligence  
8 priorities, didn't we?

9 A We did.

10 Q And that was because the Government had  
11 listed you as an expert in intelligence priorities?

12 A I don't know if they did or not. We didn't  
13 discuss that this morning.

14 When I walked into the room with you  
15 yesterday for the first time I had heard the word  
16 intelligence priorities being used in this context or  
17 question of expertise.

18 Q Yes, sir. And we also talked about  
19 coalition operations, do you recall that conversation?

20 A We did, we did.

21 Q But you're not being offered by the

1 Government as an expert in coalition operations?

2 A No, I think what, Your Honor, I don't know  
3 exactly the term, I don't recall it. I think it had to  
4 do with coalition information sharing as opposed to  
5 coalition operations, which is a different art.

6 Q Sure. So those are distinct categories?

7 A I think they're related but in my opinion  
8 they are distinct.

9 Q So, sir, let's talk about these areas of  
10 expertise.

11 Department of Defense intelligence  
12 operation, that's a broad area you would agree, right?

13 A It is.

14 Q And it contains many sub, if this was the  
15 broad topic, DoD intelligence operations, there would  
16 be many sub-bullets that would go directly underneath  
17 Department of Defense intelligence operations?

18 A Correct.

19 Q What would some of those sub-bullets be in  
20 a broad and unclassified sense?

21 A Analysts, analytical reporting,

1 dissemination, collection, vetting and then you could  
2 go through a series of functional areas,  
3 counterintelligence, human intelligence, signals  
4 intelligence, imagery intelligence. And you could go  
5 through the whole collection cycle associated with the  
6 operation of each of those.

7                   At the end of the day, someone who is  
8 working on a joint environment of the joint command as  
9 the senior intel officer has the responsibility and is  
10 accountable for putting all of that together to  
11 effectively execute the defense intelligence  
12 capabilities within that theater.

13           Q           Wouldn't information sharing, whether it's  
14 inside the United States Government or foreign  
15 partners, coalition forces, wouldn't that be a  
16 subsection of DoD intelligence operations? You've got  
17 to get the intelligence and then share it?

18           A           Yeah, I used the term dissemination there.  
19 But intel sharing and dissemination, they're perhaps  
20 not completely the same but there is some overlap  
21 there.

1           Q           Right. But again it's a sub-bullet, so  
2 DoD, intelligence operations and that's the subset?

3           A           Yes.

4           Q           Sir, have you ever acted as a original  
5 classification authority?

6           A           I believe I have. It's not a common, it's  
7 not a common function, but yes, I have in my capacity  
8 as senior intel officer in European Command or in a  
9 particular theater of operations.

10          Q           And those are identified by the executive  
11 order 13526, right?

12          A           Yeah, it's not a, it's not a very large  
13 group. It's quite small.

14          Q           Before you were an original classification  
15 authority, did you ever have occasion to disagree with  
16 an original classification authority regarding their  
17 judgment on classified information?

18          A           I don't have a specific case that comes to  
19 memory but, you know, I think over time, I don't know  
20 that you -- we often have debates and in a way to try  
21 to get the classification of particular information

1 down to a level that you can get it to the people that  
2 you feel most need it.

3 Q Would you ever do that, that debate, would  
4 it be sort of an internal debate with the person who  
5 was the original classification authority for the  
6 information?

7 A Normally it would be really between  
8 representatives of a particular organization.

9 Q Right. Very limited.  
10 You would never disagree publicly with a  
11 original classification authority regarding his or her  
12 judgment on classification?

13 A I don't know that I've ever got up at a  
14 town center and made a cry, I disagree. But certainly  
15 I have over VTC or over various, you know, in forums,  
16 you know, argued or advocated for a particular case  
17 that I needed something to access the information.

18 Q Would you do it as a witness in this case,  
19 would you review a document and say this doesn't need  
20 to be classified as a witness sitting in that chair in  
21 this forum?

1           A           I don't think that's necessary in here  
2   today. I don't think that that's what I'm asked to do  
3   but --

4           Q           Would you?

5           A           And I don't know that I would necessarily  
6   have all of the references that I might need to make  
7   that judgment.

8           Q           Now, most of the assessments you're going  
9   to talk about, when I say assessments, I mean opinions  
10   and judgments, you made these assessments in 2011; is  
11   that right?

12          A           In the period between 2010, 2011 timeframe  
13   yes.

14          Q           Have you gone back to the original source  
15   material to prepare your analysis to see if the  
16   judgments are still valid?

17          A           I have on one occasion gone back and spent  
18   probably 30 minutes scanning the final report that we  
19   signed out at the conclusion of the task force. Those  
20   are the only, that's the only thing I read.

21                   Let me rephrase. I did read the two-page

1 memo that was my guidance from the Secretary of  
2 Defense.

3 Q Other than that, you haven't, you didn't  
4 consider anything in preparing for your trial today?

5 A Certainly considered things in my mind but  
6 I didn't go grab any particular documents or seek out  
7 any reading material.

8 Q Let me correct myself, I said your trial,  
9 of course I mean your testimony.

10 A Thank you.

11 Q You're welcome.

12 General Carr, may I have one second?

13 THE COURT: Yes.

14 BY MR. HURLEY:

15 Q With respect to your congressional  
16 testimony, did you have a prepared statement? I know a  
17 lot of times congressional statement begins with  
18 prepared statements. Did you have one in any of the  
19 times that you have testified, raised your right hand  
20 and testified before congress, not these informal  
21 meetings that you had with members of your staffs?

1           A           Yeah, you know, I don't recall ever having  
2           to raise my right hand. I mean, I was called to the  
3           table. We sat at the table with the name in front of  
4           the microphones. In most cases I don't think I had a  
5           prepared statement.

6                       I was often the intel rep on a group of two  
7           or three. So the lead of the group, the operator,  
8           would often read the prepared statement, not my  
9           statement.

10          Q           In your capacity as the director of the  
11          IRTF, did you ever have a prepared statement when you  
12          testified before Congress?

13          A           We did collectively have a prepared  
14          statement but I was not the one that read the  
15          statement. The statement was read by someone else that  
16          was part of the testimony team.

17          Q           Do you recall who else participated in this  
18          collective prepared statement?

19          A           I don't have all the names from each time.

20          Q           Just a name you can remember?

21          A           I know in one case I went up with the,



1 Mr. Tom Ferguson at that time who was the Acting Under  
2 Secretary of Defense for intelligence.

3 I know on one case I testified along with  
4 General Clapper, the Director of National Intelligence.

5 MR. HURLEY: All right, ma'am, that's the  
6 end of our voir dire. If we could lodge our objections  
7 at this point?

8 THE COURT: Go ahead.

9 MR. HURLEY: Thanks, General Carr.

10 Ma'am, we would object to this particular  
11 testimony in three ways: First, that the expertise  
12 proffered by the Government is overbroad.

13 Second, that it's cumulative.

14 THE COURT: Cumulative to what?

15 MR. HURLEY: Cumulative, the DoD  
16 intelligence operations and his information sharing  
17 inside DoD intelligence operations, those are -- one is  
18 a subset of the other. So it, from the perspective of  
19 the defense, ma'am, that could be cumulative bit of  
20 information or cumulative expertise.

21 THE COURT: All right.

1                   MR. HURLEY: Finally, ma'am, the testimony  
2 of this witness as we have got through the voir dire it  
3 indicates that it fails MRE702, it doesn't rely on  
4 sufficient facts or data. The information is not  
5 applied to the problem in the correct way.

6                   Just one second, ma'am.

7                   There's no evidence that the witness has  
8 applied the principles and methods reliable to the  
9 facts in the case.

10                  THE COURT: All right. Government? First  
11 off, start by addressing the overbroad.

12                  What's the point in the expertise in, first  
13 of all, do you agree that intelligence sharing with  
14 U.S. Government and foreign partners and coalition  
15 forces is a subset of DoD intelligence operations?

16                  MR. FEIN: Ma'am, it can be. The only  
17 reason I say it can be because as General Carr  
18 testified prior to the voir dire that intelligence  
19 information sharing within the U.S. Government is  
20 broader than DoD. I think there is potential for  
21 significant overlap in the fields of expertise but

1     they're not -- one is not encompassing of the other.

2                   THE COURT:   Okay.   I'm willing to address  
3     the defense objections.

4                   MR. FEIN:    Yes, ma'am.

5                   First, Your Honor, the expertise, ma'am, if  
6     I may testify from the table -- answer questions from  
7     the table?

8                   THE COURT:   Of course.

9                   MR. FEIN:    First, Your Honor, the expertise  
10    being overbroad.   The United States intends to ask  
11    General Carr about the impact, to ask him his opinion  
12    on the impact on the overall intelligence operations of  
13    junior enlisted soldiers disclosing classified  
14    information and as he's testified that within the  
15    Department of Defense intelligence system that there  
16    are junior analysts at all levels from tactical to  
17    strategic level and in all function areas.   And that's  
18    where intelligence analysts are found.

19                   PFC Manning was an intelligence analyst and  
20    we intend to ask him his opinion on intelligence  
21    analysts committing these types of crimes and what

1     aggravating circumstances from that and potentially in  
2     the future.

3                 So the United States, while it's not  
4     overbroad based off of the crimes that PFC Manning has  
5     been convicted of, cumulative of itself, I think I  
6     answered that it's not per se cumulative because one  
7     deals with information just exclusive within the DoD  
8     and it's information centric.

9                 There's no question that DoD, Department of  
10    Defense intelligence operations, does also include  
11    information sharing within DoD. But General Carr is  
12    also going to explain the United States intends to  
13    elicit his opinion on how information sharing outside  
14    of the DoD with DoD information also was impacted both  
15    within the Government and with foreign partners.

16                As far as the MRE702, excuse me, Your  
17    Honor, 702 objection, is that General Carr is first of  
18    all basing his opinion on his specialized knowledge and  
19    training. He is relying on his 31 years of experience  
20    and his unique jobs both within the coalition  
21    environment and within the Department of Defense as an

1 intel professional.

2 Based off of that, Your Honor, the facts he  
3 reviewed in his official capacity and relied upon are  
4 sufficient with those, within the field. Members of  
5 Congress relied upon General Carr, U.S. Government  
6 officials relied upon General Carr, and that is based  
7 off his experience and knowledge and the information he  
8 reviewed and we'll get, assuming his expertise is  
9 granted, we'll get to the exact information and the  
10 types of information he reviewed for that opinion.

11 THE COURT: Yes.

12 MR. HURLEY: Ma'am, there's a lot of, to  
13 assess out what the Government just said before I  
14 address it, I'd like to address it first, before I do  
15 that, could we excuse General Carr for this  
16 conversation?

17 THE COURT: All right.

18 General Carr, once again, why don't you go  
19 ahead and wait outside and don't discuss your testimony  
20 with anyone while you're in wait.

21 Let the record reflect the witness has

1 departed.

2 MR. HURLEY: Ma'am, from the position of  
3 defense, what the one area of expertise was as we took  
4 note the impact that flowed to junior enlisted  
5 intelligence analyst and his position of defense,  
6 ma'am, but that opinion, however derived, allowing the  
7 Court allows him to get there that that doesn't relate  
8 to or result from the accused's misconduct. That those  
9 individuals aren't victims.

10 So it's either the victim, the victim  
11 prong, or the command prong, or the fill-in-the-blank  
12 prong of 1001(b)(4). But it said includes but isn't  
13 limited to the position of the defense, ma'am, that  
14 that testimony you heard, here's how it affects all the  
15 individuals no matter where they're found in the  
16 operation spectrum doesn't fit within 1001(b)(4).

17 THE COURT: Is it your objection that the  
18 witness doesn't have the knowledge of that or your  
19 objection that it's not unit aggravation?

20 MR. HURLEY: Ma'am, we have got to -- there  
21 are two separate objections based on the proffer from

1 the Government. The first that the witness doesn't  
2 qualify as an expert under MRE702. That's what --

3 THE COURT: I guessed that.

4 MR. HURLEY: This objection, ma'am, is even  
5 if you allow him to get to be an expert, so say you  
6 overruled the suite of objections that we filed, that  
7 under 1001(b)(4) that expertise doesn't fit within your  
8 1001(b)(4).

9 THE COURT: So the Defense's position that  
10 the impact on soldiers in the unit is not impact on the  
11 unit?

12 MR. HURLEY: Ma'am, it's not soldiers in  
13 the unit necessarily what the Government indicated.  
14 It's soldier throughout the operational spectrum, be  
15 they at national, strategic, or tactical level.

16 And it's not tailored to what we would, and  
17 the Defense's position would be it's not tailored to  
18 the command, 1001(b)(4) and the command prong says this  
19 information in the command. So there's a command that  
20 must be selected and lawyers or a reference point that  
21 must be made as to what command we're talking about.

1           THE COURT: Government, what's the basis  
2 for expertise on impact on unit analysts?

3           MR. FEIN: Ma'am, I think there's some  
4 confusion right there. The United States, the reason I  
5 attempted to articulate and I'll try again here is to  
6 qualify General Carr as an expert in DoD intelligence  
7 operations is PFC Manning's impact on DoD intelligence  
8 operations.

9           THE COURT: But there's a distinction  
10 between his impact on intelligence operations and his  
11 impact on individual junior analysts.

12          MR. FEIN: Correct, Your Honor. And the  
13 United States did not intend to say we're offering  
14 General Carr's testimony on impacting individual  
15 analysts by name.

16          What General Carr will give an opinion on  
17 PFC Manning's actions. He's been found guilty on  
18 having impacted the entire system because of lack of  
19 trust of junior analysts and he'll give his opinion on  
20 why that is.

21          Your Honor, the United States will say



1 that's directly related to his actions, PFC Manning's  
2 actions.

3 THE COURT: So has this IRTF studied that?

4 MR. FEIN: No, ma'am. It's General Carr by  
5 looking at what the IRTF didn't study and he reviewed  
6 and he knew from that and his opinion based on the 31  
7 years of experience on how the impact will occur.

8 And second, Your Honor, it's not just what  
9 Defense wants to make about the unit but it's a  
10 permissible aggravating factor for this is the impact  
11 of national security and what General Carr is going to  
12 talk about is that if the United States Government and  
13 DoD and intelligence community cannot rely on analysts  
14 because of lack of trust and insider threat, that that  
15 does impact our national security and he's going to  
16 talk about that, too.

17 THE COURT: That's a different opinion than  
18 the one you articulated. The one I thought I heard you  
19 articulate was he was going to opine that the trust of  
20 junior analysts on the ground is impacted and that  
21 impacts national security.

1                   MR. FEIN: No, ma'am. It's the system he's  
2                   (inaudible) that we're offering him as an expert in.  
3                   It's the DoD intelligence operations that are affected.  
4                   DoD intelligence operations, that's what the United  
5                   States is offering him as an expert in and that's what  
6                   was impacted and the reason it was impacted is what I  
7                   just talked about, Your Honor, that the intelligence  
8                   operations itself has been and will continue to be  
9                   impacted and he's explaining why after he gives the  
10                  opinion.

11                 THE COURT: All right.

12                 MR. FEIN: That is based off the analysts,  
13                 Your Honor.

14                 THE COURT: Any last words?

15                 MR. COOMBS: Your Honor, one thing, I think  
16                 I would like to just jump in on this issue because I  
17                 think it may impact on other witnesses.

18                 As we sat down with the Government  
19                 yesterday, the Government has been giving us the areas  
20                 of expertise for the witnesses that they intend to call  
21                 as experts.

1           And then also we have been trying to get  
2   from them the basis for the opinion so that we can see  
3   how the individual got to that. And that's been in  
4   general format that we have received that information.

5           As these witnesses are testifying and this  
6   witness is beginning to testify, it appears that the  
7   Government is, is trying to put just about everything  
8   that ever happened at the feet of PFC Manning. And  
9   this may be something that we will brief on, but this  
10   is very similar to US versus Nourse, 34 MJ.

11           THE COURT: What does that mean?

12           MR. COOMBS: I'll tell you, ma'am. US v.  
13   Nourse, the (inaudible) case what is directly relating  
14   to or resulting directly from an RCM 1001(b)(4).

15           What Nourse stands for that that phrase  
16   directly related to or resulting from, imposes a higher  
17   standard than mere relevance and, in fact, the accused  
18   is not responsible for a never-ending change of cause  
19   and effects.

20           And that that's under --

21           THE COURT: All right, we're gonna do this.

1 We will take an extended lunch. Do you want to brief  
2 this to me? You can brief it to me.

3 MR. COOMBS: I will.

4 THE COURT: Government, you brief your  
5 response. This is apparently going to be a systemic  
6 issue for the sentencing.

7 MR. FEIN: Yes, ma'am.

8 THE COURT: If you anticipated this issue  
9 is going to come up, why am I hearing about it at a  
10 lunch break with the witness sitting here.

11 MR. COOMBS: That's a great question  
12 because what we asked of the Government and the  
13 Government said, hey, we want to sit down with you to,  
14 you know, to basically flush out any issues for  
15 sentencing.

16 We said, yeah, let's sit down. And then we  
17 approached the Government again saying let's sit down.

18 Yesterday, we approached them again saying  
19 let's sit down and let's narrow down what are you  
20 trying to qualify these individuals as an expert. What  
21 areas do you intend them to testify to and what's the

1 basis of their opinion. And we haven't gotten  
2 specifics back on any of that.

3 And in this individual we just learn now,  
4 there's probably 914 jinxes testimony because we  
5 haven't received in discovery any of his previous  
6 statements to Congress on the IRTF. We didn't receive  
7 those in discovery.

8 So the issue here is not the Defense, you  
9 know, sandbagging. The issue is we don't know what  
10 these witnesses were going to testify to. And we  
11 interviewed them before, we got a very small snippet of  
12 time with each of these individuals, 45 minutes to an  
13 hour. And at that time the individuals had a very  
14 general understanding what they'd be testifying to.

15 Even as of yesterday when we spoke with  
16 Brigadier General Carr, our understanding based upon  
17 the sitdown with the Government of what he qualified as  
18 an expert for and what he ultimately is attempting to  
19 be qualified as an expert now was not the same --

20 THE COURT: Is there anything in writing  
21 from the Government?

1                   MR. COOMBS: No. This was essentially a,  
2 little over an hour meeting with the Government in the  
3 deliberations room with the idea let's, you know, let's  
4 figure out what you're trying to offer these  
5 individuals as expert in. What's the basis of their  
6 opinion?

7                   And what we asked them for is we said,  
8 look, if you had given this to us in discovery, the  
9 basis, point to where in discovery, because what we  
10 intend to ask these witnesses, okay, what's the basis  
11 of your opinion. List them out, one, two, three, four,  
12 five. And then compare that with what the Government  
13 has told us as far as what they're providing as the  
14 basis.

15                  But often times the witness either doesn't  
16 know for sure what they're going to be testifying to  
17 or, in this case, the expertise that we have been told  
18 and we spent a considerable amount of time with General  
19 Carr on, isn't the expertise that he's going to be  
20 testifying to.

21                  So --

1           THE COURT: What's the Government telling  
2 you he was going to be testifying about as his  
3 expertise?

4           MR. COOMBS: I'll defer it.

5           THE COURT: All right.

6           MR. HURLEY: Ma'am, its 50 May filing by  
7 the Government indicating which experts they're going  
8 to call. I'll get the number for you as soon as  
9 possible. They indicated that General Carr was going  
10 to talk about intelligence priorities, coalition  
11 operations, and information sharing. And I don't  
12 remember how they described the information sharing.

13           In that meeting with the Government  
14 yesterday, we talked about intelligence priorities and  
15 what the Government I'm sure will say what they said is  
16 we must have left with different understandings.

17           I understood that intelligence priorities  
18 was still going to be an area of expertise from General  
19 Carr. They thought they communicated to me it wasn't.  
20 That's just the way it was. But I was going off of,  
21 ma'am, that Appellate Exhibit.

1           THE COURT: May I see the Appellate  
2 exhibit? Which Appellate exhibit are we talking about?

3           MR. FEIN: Ma'am, if this makes it easier,  
4 we'll provide all the Appellate exhibits. I've given  
5 the Defendant plenty of notice since I produced all of  
6 the discovery a year ago that has all of the  
7 information in it. We'll lay all that out in the  
8 filing Mr. Coombs wants to do at the last minute.

9           THE COURT: Right. Now I want to take a  
10 15-minute recess and I want to see both counsel because  
11 we have a schedule here that has to go, that we have  
12 got to go forward. And I, as the Court, can't make  
13 decisions when I'm just immediately in the middle of a  
14 lunch break, here's case X, case Y, case Z, issue this,  
15 issue that, decide in five minutes. It doesn't work  
16 that way.

17           Let's put the Court in recess and come see  
18 me.

19           (Court in recess.)

20           (Inaudible.)

21           THE COURT: -- US Forces J2 he was selected



1 by senior Government officials to represent them before  
2 Congress. He was also the director of the Defense  
3 Counterintelligence and HUMINT Center from, for DIA  
4 from September of '09 to July of 2011 and he was  
5 appointed by the Secretary of Defense to JR IRTF.  
6 General Carr testified over the years of his work at US  
7 intelligence operations and intelligence sharing with  
8 United States Government and foreign partners and  
9 coalition forces. He applied reliable principles and  
10 methods to intelligence operations and information  
11 sharing issues. Brigadier General Carr is a witness  
12 properly qualified as an expert by his knowledge of  
13 intelligence operations and experience. His opinion  
14 will help the trier of fact to understand the evidence  
15 and determine facts at issue. Brigadier General Carr  
16 was (inaudible) mitigating any exposures given to them  
17 by PFC Manning. His testimony is based on sufficient  
18 facts and data. Defense motion opposing Brigadier  
19 General Carr's qualification as expert witness MRE702  
20 is denied. I also don't find it's cumulative.

21 Now, the defense further objects to

1 Brigadier General Carr testimony as improper  
2 aggravation as RCM1001. As the Court doesn't know what  
3 Brigadier Carr's testimony will be, the Court in it's  
4 interlocutory capacity will hear the testimony.

5 The defense will file a brief tonight  
6 indicating what, if any, of Brigadier Carr's testimony  
7 they believe is improper aggravation, along with any  
8 case law to include an electronic copy for the Court  
9 upon which they rely. The Government will respond  
10 tomorrow.

11 If either party desires oral argument, the  
12 party will advise the Court.

13 Should the Court find that some or all of  
14 Brigadier General Carr's testimony is improper  
15 aggravation evidence under RCM1001, the Court will, as  
16 acting as sentencing authority, will disregard it. The  
17 trial will continue as previously scheduled.

18 Now, the Government will inquire of all  
19 potential expert witnesses whether they have testified  
20 before Congress and, if so, did they prepare, did they  
21 have a written prepared statement. If there are any

1 statements that the witness has made, they qualify.

2 (Inaudible) notify the defense to secure the statement.

3 I met with counsel for both sides during  
4 the recess that we had to discuss the way ahead this  
5 procedure was discussed with the parties and would  
6 either side like to add anything further?

7 MR. COOMBS: No, Your Honor.

8 MR. FEIN: No, Your Honor. Just point of  
9 clarification, for the Government assume the testimony  
10 before Congress as it relates to the witness' testimony  
11 in RCM914.

12 THE COURT: Of course. I assume your  
13 request will be no broader than that.

14 MR. COOMBS: That is correct, Your Honor.

15 THE COURT: Is there anything else we need  
16 to address before we recall the witness.

17 MR. HURLEY: Ma'am, one thing, we're going  
18 to have objections as well to the facts, some of the  
19 facts that General Carr is going to talk about. Should  
20 we make those objections for the Court now or include  
21 that in our brief tonight?

1                   THE COURT: Give me an example.

2                   MR. HURLEY: Ma'am, just the establishment  
3 of the IRTF, how many people worked there, how, what  
4 their duty schedule was.

5                   THE COURT: What is objectionable about any  
6 of them?

7                   MR. HURLEY: Ma'am, we believe that that,  
8 that there's two bits of objection to it. Two bases:  
9 The first is that it's law enforcement evidence  
10 essentially. That they needed an in-depth analysis of  
11 the information and in doing an in-depth analysis of  
12 the information they identified ways the harm could be  
13 minimized and took what they thought were appropriate  
14 steps to do that.

15                   So our objection to that would be that  
16 information, that investigation and the money that was  
17 spent and the man hours that were worked is improper  
18 aggravation of RCM1000B4.

19                   THE COURT: Under the case law the fact  
20 that general article whatever was held and all the --

21                   MR. HURLEY: Yes, ma'am.

1                   THE COURT: I understand the objection.  
2   You've made it.

3                   Government, are you eliciting that kind of  
4   information?

5                   MR. FEIN: From General Carr we're  
6   eliciting general information about that but there will  
7   be similar information right after between the two of  
8   them.

9                   THE COURT: I understand the objection. If  
10   you want to stand up and say this is the objection I'm  
11   making, go ahead. I would like that in your written  
12   brief and, Government, you certainly need to address  
13   that in your response.

14                  MR. FEIN: Yes, ma'am.

15                  MR. HURLEY: Yes, ma'am.

16                  THE COURT: Anything else we need to  
17   address before we recall the witness?

18                  MR. FEIN: No, ma'am. May we have a  
19   moment?

20                  THE COURT: Yes.  
21

1 Whereupon,

2 BRIGADIER GENERAL ROBERT CARR,  
3 having been previously duly sworn to tell the truth,  
4 the whole truth, and nothing but the truth, was  
5 recalled and testified as follows:

6 FURTHER DIRECT EXAMINATION BY MR. FEIN:

7 Q Sir, I'll remind you you're under oath.

8 The Court did accept the United States  
9 offer for your expertise. So now I'm going to ask  
10 questions, sir, based off of that expertise.

11 How did you first become aware of the  
12 WikiLeaks disclosures?

13 A In the request.

14 Q When was that, sir?

15 A I believe it was approximately 25  
16 July 2010.

17 Q I know I asked you very briefly before,  
18 sir, but now what was the IRTF information review task  
19 force?

20 A So when the documents were released, I  
21 think the public saw some statements and presentations

1 by senior members and Department of Defense, I think,  
2 chairman, secretary came out publicly and expressed  
3 some significant concern for the safety of sources, the  
4 safety of our troops, the safety of those people we  
5 were in contact with.

6 And so between the senior levels of the  
7 Department of the Defense, the senior levels of the  
8 Office of Director of National Intelligence and DIA,  
9 they came to the conclusion that they needed to put a  
10 task force together to deal with this particular issue  
11 and the task force was formed and the name that was  
12 given to it was the Information Review Task Force,  
13 otherwise IRTF.

14 Q What was your role, sir, as it pertains to  
15 the IRTF?

16 A So in agreement between DIA, the Department  
17 of Defense senior leadership and ODNI came to the  
18 conclusion that DIA would take the responsibility for  
19 establishing that task force and it was determined that  
20 General Burgess would then turn to me and give me that  
21 function, that task to oversee the task force. Get it

1 established, get started, and execute the mission.

2 Q Sir, who ultimately determined that DIA  
3 would have the lead for running this IRTF?

4 A I believe it was an agreement between  
5 Secretary of Defense's front office, the ODNI's front  
6 office, Chief of Staff level and Lieutenant Burgess  
7 personally. Those three agreed that the IRTF would  
8 take that responsibility.

9 Q Who ordered the IRTF to be stood up  
10 ultimately?

11 A The Secretary of Defense signed a  
12 memorandum that gave, established the task force,  
13 required support by multiple DoD agencies and  
14 organizations and gave us a series of tasks that he  
15 expected us to accomplish.

16 Q Sir, when was the IRTF stood up?

17 A Within just a day or two of the release of  
18 the Afghan files.

19 Q So in reference to the summer of 2010,  
20 which months, June, July or August?

21 A I believe it was still in July. It was



1     literally within 24/48 hours.

2           Q           Could you please describe for the Court the  
3     tasking that was basically ordered by Sec. Def. for the  
4     task force that you oversaw?

5                   MR. HURLEY:  Objection, ma'am, relevance.

6                   THE COURT:  Understood.  I told the defense  
7     to go ahead and articulate when they would be  
8     objecting, but that's going to be in the written  
9     filing.  So proceed.

10          Q           Yes, ma'am.

11                   Sir, could you please describe the tasking  
12     that you received for the IRTF, what its function and  
13     purpose is for?

14          A           So there was a number of tasks and I don't  
15     know if I'll capture all of them right now.  I think it  
16     was like six or eight.  If I'm not mistaken.

17                   The first task was to understand any  
18     sources or methods or intel activities that might be at  
19     risk as a result of this release.

20                   There was another task in there that talked  
21     about protecting the population on the battlefield.

1 People that had their names in these reports that might  
2 be viewed as collaborators with the US forces.

3 I was to look for any insensitivities to a  
4 particularly religion or a particular culture and try  
5 to identify those as quick as we could.

6 I was to look for any issues that might be  
7 put forth that would cause fracture between various  
8 nations or various parts of the coalition.

9 I was to provide recommendations for  
10 mitigation strategies and I was to provide the  
11 department advance warning on any additional releases  
12 that might have been subsequent to the Afghan files.

	<b>actually (4)</b> 34:17;45:10;52:13;71:7	<b>aggravation (5)</b> 93:19;105:2,7,15;107:18	<b>22:7;35:13;62:6;81:21</b>
<b>\$</b>	<b>add (1)</b> 106:6	<b>ago (2)</b> 33:10;103:6	<b>answered (2)</b> 51:8;91:6
<b>\$2,014.80 (1)</b> 6:20	<b>addition (3)</b> 5:16;35:21;44:3	<b>agree (7)</b> 11:11;29:2;34:3;74:19; 78:16;81:12;89:13	<b>antenna (1)</b> 38:17
<b>A</b>	<b>additional (4)</b> 7:11;27:21;51:1;113:11	<b>agreed (1)</b> 111:7	<b>anticipated (1)</b> 99:8
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